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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,331	04/12/2002	David M. Fried	BUR920010172	8745
30607	7590	12/15/2004	EXAMINER	
SCHMEISER, OLSEN & WATTS LLP 18 EAST UNIVERSITY DRIVE, #101 MESA, AZ 85201			PHAM, HOAI V	
			ART UNIT	PAPER NUMBER
			2814	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/063,331		FRIED ET AL.	
	Examiner		Art Unit	
	Hoai v Pham		2814	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/22/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,8,10,11,20-22,24,25,27 and 29-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10,11,20,24,25,29-31 and 33 is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8,21,22,27,32 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 19 June 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in claim 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 21-22 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 21, the phrase "a first interconnect connected to one of the top surface, the first side surface, and the second side surface of the Fin structure" is not described in the specification and the figure. See the specification and the drawing shown that Fin structure is a layer (206) and conductor structure is a layer (212) (see fig. 7b of the nominal voltage 214). It is not clear how the first interconnect connected to one of the top surface, the first side surface, and the second side surface of the Fin structure, while the base claim 20 recited the conductor structure totally overlays the Fin structure.

Claim 22, the phrase "a second interconnect connected to the conductor substrate" is not described in the specification and the figure (see claim 21 for detail).

Claim 27, the phrase "a FinFET is disposed on the substrate, the FinFET having a gate electrode coupled to said conductor structure" is not described in the specification and the figure (see claim 21 for detail).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-4, 8 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al. [U.S. Pat. 6,407,442] previously applied, in view of Ting [U.S. Pat. 5,838,032] previously applied.

With respect to claim 1, Inoue et al. (fig. 2, cols. 4-6) discloses a capacitor formed on a substrate (101), comprising:

a Fin structure (103) having a top surface and a first side surface opposite a second side surface, said Fin structure including conductivity enhancing dopant ions in a semiconductor material (see col. 4, lines 62-63);

an insulator structure (104) adjacent the top surface of the Fin structure (see col. 4, line 64); and

a conductor structure (105a) adjacent the insulator structure (see col. 4, lines 64-65), wherein all conducting material on a top surface of the insulator structure is continuously distributed on the top surface of the insulator structure (144) and is comprised by the conductor structure (105a), wherein the conductor structure partially but not totally overlays the Fin structure, and wherein a thickness of the conductor structure is within a thickness of the Fin structure, said thickness of the Fin structure being a distance between the first and second side surfaces of the Fin structure, said thickness of the conductor structure being oriented in a same direction as said thickness of the Fin structure, said insulator structure comprising a single insulative material distributed from the top surface of the Fin structure to a bottom surface of the conductor structure (see fig. 2).

Inoue et al. does not disclose the Fin structure including a single-crystal semiconductor material. However, Ting discloses that the lower electrode (23) can be formed of single-crystal semiconductor material (see col. 4, lines 42-44). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to select single-crystal semiconductor material as known materials, as taught by Ting into the device of Inoue et al. to form the lower electrode with good conductor which provide the known purpose of increasing the capacitance of the capacitor. Moreover, selection of a known material based on its suitability for its intended use

Art Unit: 2814

supported a prima facie obviousness determination in *Sinclair & Carroll Co., Inc. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

With respect to claim 2, Inoue et al. discloses that a first interconnect (202) disposed adjacent to the top surface of the Fin structure (103) (see fig. 2).

With respect to claim 3, Inoue et al. discloses that a second interconnect (107) connected to the conductor structure (105a) (see fig. 2).

With respect to claim 4, Ting further discloses that the conductor structure (25) includes a conductive material consisting of a metal (see col. 4, lines 44-46).

With respect to claim 6, Inoue et al. does not teach the exact height range of their Fin structure, as claimed by Applicant. However, the height range would have been obvious to an ordinary artisan practicing the invention because, absent evidence of disclosure of criticality for the range giving unexpected results, it is not inventive to discover optimal or workable ranges by routine experimentation. *In re Aller*, 220 F.2d 454, 105 USPQ 233, 235 (CCPA 1955). Furthermore, the specification contains no disclosure of either the critical nature of the claimed dimensions of any unexpected results arising therefrom. Where patentability is aid to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. See *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990). Therefore, it would have been obvious to one having skill

in the art at the time the invention was made to select the height range of the Fin structure in an integrated circuit for different application.

With respect to claim 8, Inoue et al. discloses that a FinFET (110, 111) is disposed on the substrate, the FinFET having a gate electrode (105) coupled to said conductor structure (see fig. 13).

With respect to claim 34, Ting discloses that the thickness of the Fin structure is greater than 40 nm. It is noted that, the height of the Fin structure (23) is between about (2700-3300 Angstrom = 270-330 nm) (see col. 3, lines 60-64). Therefore, the length thickness of the Fin structure (23) is inherently greater than 40 nm.

8. Claims 1-4, 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Natsume [U.S. Pat. 5,356,826] previously applied, in view of Ting [U.S. Pat. 5,838,032] previously applied.

With respect to claim 1, Natsume (fig. 12, cols. 4-6) discloses a capacitor formed on a substrate (100), comprising:

a Fin structure (L1) having a top surface and a first side surface opposite a second side surface, said Fin structure including polycrystalline silicon material (see col. 5, lines 1-3);

an insulator structure (1) adjacent the top surface of the Fin structure (L1) (see col. 5, line 10-15); and

a conductor structure (L2) adjacent the insulator structure (1) (see col. 6, lines 5-12), wherein all conducting material on a top surface of the insulator structure is continuously distributed on the top surface of the insulator structure (1) and is comprised by the conductor structure (L2), wherein the conductor structure partially but not totally overlays the Fin structure, and wherein a thickness of the conductor structure is within a thickness of the Fin structure, said thickness of the Fin structure being a distance between the first and second side surfaces of the Fin structure, said thickness of the conductor structure being oriented in a same direction as said thickness of the Fin structure, said insulator structure comprising a single insulative material (see col. 5, lines 10-11) distributed from the top surface of the Fin structure to a bottom surface of the conductor structure (see fig. 12).

Natsume does not disclose the Fin structure including a single-crystal semiconductor material. However, Ting discloses that the lower electrode (23) can be formed of single-crystal semiconductor material (see col. 4, lines 42-44). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to select single-crystal semiconductor material as known materials, as taught by Ting into the device of Natsume to form the lower electrode with good conductor which provide the known purpose of increasing the capacitance of the capacitor. Moreover, selection of a known material based on its suitability for its intended use supported a prima facie obviousness determination in *Sinclair & Carroll Co., Inc. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

With respect to claim 2, Natsume discloses that a first interconnect (M) disposed adjacent to the top surface of the Fin structure (L1) (see fig. 12).

With respect to claim 3, Natsume discloses that a second interconnect (CN) connected to the conductor structure (L2) (see fig. 12).

With respect to claim 4, Natsume discloses that the conductor structure (L2) includes a conductive material consisting of a metal (see col. 6, lines 8-11).

With respect to claim 6, Natsume does not teach the exact height range of their Fin structure, as claimed by Applicant. However, the height range would have been obvious to an ordinary artisan practicing the invention because, absent evidence of disclosure of criticality for the range giving unexpected results, it is not inventive to discover optimal or workable ranges by routine experimentation. *In re Aller*, 220 F.2d 454, 105 USPQ 233, 235 (CCPA 1955). Furthermore, the specification contains no disclosure of either the critical nature of the claimed dimensions of any unexpected results arising therefrom. Where patentability is aid to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. See *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to select the height range of the Fin structure in an integrated circuit for different application.

With respect to claim 32, Natsume discloses that an insulator layer (3) such that an entire bottom surface of the Fin structure (L1) is in direct mechanical contact with a top surface of the insulator layer (3); and an insulation film (8) on the side surface of the Fin structure (L1) and direct mechanical contact with the first side surface of the Fin structure, wherein the insulator structure has a lower surface and an upper surface such that a height of the lower surface of the insulator structure above the top surface of the insulation film is less than a height of the upper surface of the insulator structure above the top surface of the insulator layer, and wherein a height of a top surface of the insulation film above the top surface of the insulator layer is greater than the height of the lower surface of insulator structure and less the height of the upper surface of the insulator structure (see fig. 12).

With respect to claim 34, Ting discloses that the thickness of the Fin structure is greater than 40 nm. It is noted that, the height of the Fin structure (23) is between about (2700-3300 Angstrom = 270-330 nm) (see col. 3, lines 60-64). Therefore, the length thickness of the Fin structure (23) is inherently greater than 40 nm.

Allowable Subject Matter

9. Claims 10-11, 20, 24-25, 29-31 and 33 are allowed.

Response to Arguments

10. Applicant's arguments filed 11/22/04 have been fully considered but they are not persuasive.

Applicant argues that Inoue does not teach or suggest the feature "said insulator structure comprising a single insulative material distributed from the top surface of the Fin structure to a bottom surface of the conductor structure".

Applicant's arguments are not persuasive because Inoue clearly discloses the insulator structure (104) comprising a single insulative material (oxide film) distributed from the top surface of the Fin structure to a bottom surface of the conductor structure (see fig. 2, col. 5, lines 52-57 "the insulating film between the two electrodes the same layer as the gate electrode of the MOS transistor is used" and col. 10, lines 50-55 "gate oxide film 960"). Since the insulating film between the two electrodes of the capacitor and the gate insulating film are formed of the single insulative material oxide film, thus Inoue meets and anticipates the claim.

Applicant argues that it is not obvious to modify Inoue or Natsume with the alleged teaching of Ting since Ting identifies the use of a single crystal semiconductor material with "electrical isolation of the capacitor array... achieved through use of PN junctions rather than field oxide" while Natsume's invention is not directed to achieving "electrical isolation of the capacitor array... achieved through use of PN junctions rather than field oxide".

Applicant's arguments are not persuasive because the combination of Inoue or Natsume in view of Ting is to modify the lower capacitor electrode and has nothing to do with the "electrical isolation of the capacitor array... achieved through use of PN junctions rather than field oxide". The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Inoue or Natsume in view of Ting is to modify the lower capacitor electrode with good conductor which provide the known purpose of increasing the capacitance of the capacitor.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2814

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoai v Pham whose telephone number is 571-272-1715.

The examiner can normally be reached on M-F.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael M Fahmy can be reached on 571-272-1705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**HOAI PHAM
PRIMARY EXAMINER**